

Office of the Secretary of Defense

§ 320.9

§ 320.8 Appeal of initial adverse agency determination on correction or amendment.

(a) An individual whose request for amendment of a record pertaining to him may further request a review of such determination in accordance with this section.

(b) Not later than 30 working days following receipt of notification of denial to amend, an individual may file an appeal of such decision with NGA. The appeal shall be in writing, mailed or delivered to NGA, ATTN: Mail Stop D-10, 4600 Sangamore Road, Bethesda, MD 20816-5003. The appeal must identify the records involved, indicate the dates of the request and adverse determination, and indicate the express basis for that determination. In addition, the letter of appeal shall state briefly and succinctly the reasons why the adverse determination should be reversed.

(c) Upon appeal from a denial to amend a record the NGA Appellate Authority or designee shall make a determination whether to amend the record and must notify the individual of that determination by mail, not later than 10 working days after receipt of such appeal, unless extended pursuant to paragraph (d) of this section.

(1) The Appellate Authority or designee shall also notify the individual of the provisions of the Privacy Act of 1974 regarding judicial review of the NGA Appellate Authority's determination.

(2) If on appeal the denial to amend the record is upheld, the individual shall be permitted to file a statement setting forth the reasons for disagreement with the Appellate Authority's determination and such statement shall be appended to the record in question.

(d) The Appellate Authority or designee may extend up to 30 days the time period in which to make a determination on an appeal from denial to amend a record for the reason that a fair and equitable review cannot be completed within the prescribed time period.

§ 320.9 Disclosure of record to person other than the individual to whom it pertains.

(a) No officer or employee of NGA will disclose any record which is contained in a system of records, by any means of communication to any person or agency within or outside the Department of Defense without the request or consent of the individual to whom the record pertains, except as described in to 32 CFR 310.41; Appendix C to part 310 of this chapter; and/or a NGA Privacy Act system of records notice.

(b) Any such record may be disclosed to any person or other agency only upon written request, of the individual to whom the record pertains.

(c) In the absence of a written consent from the individual to whom the record pertains, such record may be disclosed only provided such disclosure is:

(1) To those officers and employees of the DoD who have a need for the record in the performance of their duties.

(2) Required under the Freedom of Information Act (32 CFR part 286).

(3) For a routine use established within the system of records notice.

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13.

(5) To a recipient who has provided the NGA with adequate advance written assurance that the record will be used solely as a statistical research or reporting record and the record is transferred in a form that is not individually identifiable and will not be used to make any decisions about the rights, benefits or entitlements of an individual.

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government or for evaluation by the Administrator of the General Services Administration or his designee to determine whether the record has such value.

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the U.S. for a civil or criminal law enforcement activity authorized by law,

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provided the head of the agency or instrumentality has made a prior written request to the Director, NGA specifying the particular record and the law enforcement activity for which it is sought.

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual.

(9) To either house of Congress, and, to the extent of the matter within its jurisdiction, any committee or subcommittee or joint committee of Congress.

(10) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the GAO.

(11) Under an order of a court of competent jurisdiction.

(12) To a consumer reporting agency in accordance with section 3711(f) of title 31.

(d) Except for disclosures made pursuant to paragraphs (c)(1) and (2) of this section, an accurate accounting will be kept of the data, nature and purpose of each disclosure of a record to any person or agency, and the name and address of the person or agency to whom the disclosure was made. The accounting of disclosures will be made available for review by the subject of a record at his request except for disclosures made pursuant to paragraph (c)(7) of this section. If an accounting of disclosure has been made, any person or agency contained therein will be informed of any correction or notation of dispute made pursuant to section 320.6 of this part.

§ 320.10 Fees.

Individuals may request copies for retention of any documents to which they are granted access to NGA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with 32 CFR part 310.

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§ 320.11 Penalties.

The Privacy Act of 1974 (5 U.S.C. 552a(i)(3)) makes it a misdemeanor subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. The Act also establishes similar penalties for violations by NGA employees of the Act or regulations established thereunder.

§ 320.12 Exemptions.

(a) *Exempt systems of record.* All systems of records maintained by the NGA and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be withheld in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records, including those not otherwise specifically designated for exemptions herein, which contain isolated items of properly classified information.

(b) *System identifier and name:* B0210–07, Inspector General Investigative and Complaint Files.

(1) *Exemptions:* (i) Investigative material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(ii) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C.